IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

Bail Appl..No. 6355 of 2007()

CRMP.1853/2007 of DISTRICT COURT, KASARAGOD
LPC.18/2004 of J.M.F.C.,KASARAGOD

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PETITIONER:ACCUSED:

K.PMUSTHAFA, S/O.MUHAMMED,
M.M.QUARTERS, PALOTTA PALLY,
P.O.MATTANNUR, KANNUR DISTRICT.

BY ADV. SRI.SOJAN MICHEAL

RESPONDENT: COMPLAINANT:

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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B.A.No.6355 of 2007

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Dated this the 22nd day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly involved in transportation of 3484 litres of Indian Made Foreign Liquor in a lorry. He could not be apprehended. Crime has been registered. Investigation is complete. Final report has already been filed. The petitioner has not entered appearance so far. The case against him has been transferred to the list of long pending cases. The learned Magistrate has issued coercive processes against the petitioner. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek bail. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and

expeditiously. In these circumstances, appropriate directions may be issued under section 438 Cr.P.C, prays the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. It is for the petitioner to appear before the learned Magistrate and seek regular bail in the ordinary course, submits the learned Public Prosecutor.

4. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

5. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving

sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE